IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1507 OF 2005

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

---

Mr.Vineet Naik for the petitioner.

Mr.L.M.Khairdi for Respondent Nos. 1 & 2.

Mr.D.R.More, APP for the State.

Coram : R.S.Mohite,J

Date : 19th January, 2006.

PC

1. This is a petition impugning a judgment and order passed by the IV Additional Sessions Judge, Solapur on 12.10.2004 allowing a revision and quashing a complaint thereby discharging the accused for offences punishable under Sections 398 & 399 of B.P.M.C.Act 1949. It is seen that the admitted position which can be gathered from the averments in the complaint was that offence was committed on 22.4.1995. It was further avered that the knowledge regarding commission of said offence came to the complainant on

21.8.1995. The complaint was filed on 16.5.1996 i.e. beyond the period of six months. The revision has been allowed by the Sessions Court on the footing that the complaint was filed beyond the period of limitation as mentioned in Section 428 of the BPMC Act. The limitation period provided by the said section is six months after the date of commission of the offence or if such date is not known or the offence is a continuing one, within six months next after commission or discovery of such offence. In the present case, the offence cannot be said to be a continuing one. Even we take the date of discovery, the complaint is filed beyond the period of six months. Reliance is sought to be placed on the provisions of section 473 of Cr.P.C. The said section pertains to grant of extension for a period of limitation in certain cases. Section 428 of the BPMC Act is clearly a special provision provided for limitation as regards offence punishable under the said Act. Section 473 is a general section under Cr.P.C. There is no power granted to the

Magistrate to grant extension under BPMC Act. In any case, there is no explanation whatsoever for condonation of period of limitation. In the circumstances, not a fit case to interfere. Hence petition is dismissed.

(R.S.Mohite,J)